IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Criminal Writ Petition No.1247 of 2007

Himanshu @ Hemant Rajendra Bhatt
and anr. Petitioners
Vs.
Central Bureau of Investigation
and anr. Respondents

Mr.Subhash Jha i/b. M/s.Law Global for petitioners.
Mrs.U.V.Kejriwal for CBI.
Mr.D.P.Adsule, APP for State.

CORAM: B.H.MARLAPALLE, J.

July 27, 2007.

P.C.

1. Heard Mr.Jha, the learned counsel for the petitioners and Mrs. Kejriwal appears for the respondent no.1 - CBI. The learned APP appears for the State of Maharashtra.

2. The grievance raised in this petition is on the order passed by the trial Court rejecting an application seeking recall of Shri S.C.Lohiya, who is a Handwriting Expert and was in the witness box on 20/11/2006 and his cross-examination could not be completed. He remained present on 5/12/2006, 20/12/2006 and 21/12/2006 but could not be cross-examined as the learned Advocate for the accused could not remain present before the trial

Court.

3. Mrs.Kejriwal now points out that Shri Lohiya has retired from the Government service and inspite of repeated opportunities having been granted to the petitioners-accused, the cross-examination of Shri Lohiya on recall could not be completed solely on account of the reasons attributable to the accused and, therefore, no fault could be found with the order passed by the trial Court.

4. Be that a it may, some workable arrangement could be made by providing one last opportunity to the accused in such a way that Shri Lohiya comes by the morning flight and returns to Bangalore on the same day by return flight. It was submitted that the case before the trial Court is listed on 17th August 2007 and in the second half on that day some other witnesses have been lined up for examination. It would be, therefore, appropriate that if Shri Lohiya remains present before the trial Court on 17th August 2007 at about 11 a.m., the present petitioner will have one more last chance to cross-examine and complete the cross-examination in the first half itself.

5. Hence it is directed that in case the petitioners provide return Air ticket to Shri S.C.Lohiya by Indian Airlines, Jet Airways or Kingfisher Airlines to remain present before the trial Court on 17th August 2007 at 11 a.m. and return on the same day, the trial Court is directed to record the cross-examination of Shri Lohiya and complete the same in the first half. The Air ticket for Shri Lohiya shall be handed over by the present petitioners to the learned counsel for the CBI latest by 3rd August 2007.

6. Petition is disposed off in terms of the above directions.

(B.H.MARL